

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOANN H.,

Plaintiff,

v.

Case No. 3:20-cv-14006

Magistrate Judge Norah McCann King

**FRANK BISIGNANO,
Commissioner of Social Security,**

Defendant.

OPINION AND ORDER

This matter is before the Court on Plaintiff's motion for an attorney's fee pursuant to 42 U.S.C. § 406(b)(1). Plaintiff's Motion for Attorney Fees pursuant to Section 206(b) of the Act, ECF No. 27 ("Motion for Attorney Fees"). Although the Commissioner was granted an extension of time in which to respond to the motion, Text Order, ECF No. 30, there has been no response to Plaintiff's motion.

Under the Social Security Act, a court may award "a reasonable fee for such representation . . . not in excess of 25 percent of the total of the past-due benefits. . . ." 42 U.S.C. § 406(b)(1). Contingency fee arrangements are "the primary means by which fees are set for successfully representing Social Security benefits claimants in court." *Gisbrecht v. Barnhart*, 535 U.S. 789, 807 (2002). In determining an appropriate fee under the statute, a court must also consider such factors as the character of the representation and results achieved, whether counsel was responsible for delay, and whether the benefits were large in comparison to the time expended by counsel. *Id.* at 807-08.

Plaintiff filed her current applications for Disability Insurance Benefits and Supplemental Security Income in September 2014, alleging disability beginning March 1, 2008. R. 217-26. In October 2019, this Court reversed the Commissioner's denial of those applications and remanded the matter to the Commissioner for further proceedings. R. 1043-62 (*Harvey v. Comm'r of Soc. Sec.*, 3:18-cv-14427, Opinion, ECF No.26; Order, ECF No. 27). On remand, the Commissioner again denied Plaintiff's applications. R. 985-1010. On September 30, 2021, this Court granted the parties' consent motion, reversed the Commissioner's decision, and remanded the matter to the Commissioner for further proceedings. Consent Order, ECF No. 23; Judgment, ECF No. 24.

Following that remand, Plaintiff secured a favorable decision and was awarded past-due benefits totaling \$ 120,539.92. Motion for Attorney Fees, ECF No. 27, PageID# 2764. Plaintiff's counsel seeks 25% of that award, for an attorney's fee of \$ 30,134.98. *Id.* at PageID# 2768.

The contingency fee agreement executed by Plaintiff authorizes a fee of 25% of past-due benefits. Contingency Fee Agreement, ECF No. 27-4, PageID# 2780. Maryjean Ellis, Esq., Plaintiff's well-experienced counsel, represents that 47.3 hours of time was spent on Plaintiff's behalf before this Court in this case. Itemization of Time, ECF No. 27-3, PageID# 2779. The requested fee therefore represents no more than 25% of the past-due benefits and compensation for Plaintiff's attorney at the rate of approximately \$ 637.10 per hour.

This Court concludes that the requested fee is reasonable. Counsel's successful representation of Plaintiff clearly achieved excellent results. Moreover, although the time between the filing of Plaintiff's applications and the eventual favorable resolution of those applications was extraordinarily lengthy, Plaintiff's counsel was in no way responsible for that delay. Finally, the benefits awarded were not large in comparison to the time expended by counsel. *See Gisbrecht*, 535 U.S. at 808.

Plaintiff's Motion for Attorney Fees, ECF No. 27, is therefore **GRANTED**.

IT IS ORDERED that an attorney's fee in the amount of \$ 30,134.98, which represents 25% of the past-due benefits awarded to Plaintiff, be remitted to **Plaintiff's counsel at 521 Cedar Way, Suite 200, Oakmont, Pennsylvania 15139**.

IT IS FURTHER ORDERED that, upon receipt of this sum, Plaintiff's counsel shall remit \$ 15,960.00 directly to Plaintiff JoAnn Harvey, that sum representing the amounts previously paid to counsel on Plaintiff's behalf in two cases pursuant to the Equal Access to Justice Act, 28 U.S.C. §2412. Consent Order for Payment of Fees pursuant to the Equal Access to Justice Act, ECF No. 26; *Harvey v. Comm'r of Soc. Sec.*, 3:18-cv-14427, Consent Order, ECF No. 30.

July 7, 2025

s/ Norah McCann King
Norah McCann King
United States Magistrate Judge